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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS FORTY-NINTH SESSION

RIGHTS OF PERSONS BELONGING TO NATIONAL OR ETHNIC, RELIGIOUS AND LINGUISTIC MINORITIES

GE.98-11470 (E)

Letter dated 25 March 1998 from the Chargé d'affaires a.i. of the Permanent Mission of the Federal Republic of Yugoslavia to the United Nations Office at Geneva addressed to the Chairman of the Commission on Human Rights

I have the honour to transmit, enclosed herewith*, the "Comments by the Government of the Federal Republic of Yugoslavia" regarding sections of the report by the Special Rapporteur on the situation of human rights in the territory of the former Yugoslavia, Mrs. Elizabeth Rehn (documents E/CN.4/1998/15 and E/CN.4/1998/63), and to ask you to have it published as an official document of the fifty-fourth session of the Commission on Human Rights, under agenda items 10, 15 and 16.

(signed) Mr. Miroslav MILOŠEVIĆ
Chargé d'affaires a.i.

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* The annex is circulated as received, in the language of submission only.

Annex I

COMMENTS BY THE GOVERNMENT OF THE FEDERAL REPUBLIC OF YUGOSLAVIA

regarding sections of the Report by the Special Rapporteur for Human Rights in the former Yugoslavia Elizabeth Rehn (documents E/CN.4/1998/15 and E/CN.4/1998/63)

General observations

1. The Yugoslav Government appreciates the role played and the contribution made by the Special Rapporteur for Human Rights, Elizabeth Rehn, and reiterates again that it is open for cooperation with all relevant international organizations, specialized agencies and non-governmental organizations with a view to promoting respect for and implementing human rights. Accordingly, in March 1996 the Government agreed to the establishment of the office of the Special Rapporteur for Human Rights in the former Yugoslavia based in Belgrade. The Government is opposed to the pressures put by Ms Rehn and the UN Commission on Human Rights to open another similar office in Pristina, in view of the fact that the competent federal and republican authorities have always met the requests of Ms Rehn and enabled and facilitated full freedom of movement and contacts of the Special Rapporteur and her associates with all social factors in Yugoslavia.

The Government of Yugoslavia attaches great significance to the problems related to respect for human rights. In this respect, it reminds that the FR of Yugoslavia ranks at the top of the State Parties which have accepted international instruments in the field of human rights adopted by the United Nations and that the provisions of the human rights instruments have been incorporated into the legal system of Yugoslavia through the legislation.

Consistent with the attention accorded to human rights and the harmonization with international human rights standards, the Yugoslav Government recalls its decision to accede also to the Council of Europe Convention on the protection of minorities as the first comprehensive international instrument to guarantee minority rights. Yugoslavia considers all members of national and other minorities or ethnic groups, independent of their numbers, equal Yugoslav citizens and has guaranteed them by the

Constitution and the laws the highest standards in the field of internationally recognized human and minority rights.

Regarding the expressed regret over an unsatisfactory cooperation of the appropriate authorities with the Special Rapporteur in alleged instances of human rights violations, especially in the cases of alleged police abuse coupled with doubts as to the independence of the judiciary in Yugoslavia, the Government of Yugoslavia expresses surprise at such statements contained in the Report by the Special Rapporteur and calls attention to the fact that the appropriate federal and republican authorities have in the past been prepared to offer maximum cooperation and assistance to the Belgrade office and that, to the extent of their capabilities, they have responded to the requests by Ms Rehn and made possible access to every trial in which Special Rapporteur expressed interest.

The Government does not deny that the situation in Kosovo and Metohija is complex. This situation, however, has been brought about by the secessionist aspirations of the political leadership of the Albanian national minority in Kosovo and Metohija, which was the source of all other problems created by the members of the Albanian minority - civil disobedience; attempts at introducing parallel institutions; relentless propaganda against the state institutions of Serbia and the FR of Yugoslavia including with respect to their alleged tolerance and peacefulness; manipulations with the numbers of the Albanian national minority, with history, constitutional status, children and pupils; terrorism etc.

The Government deplores that the report by Ms Rehn uses the normal activities by police, undertaken in accordance with the Constitution and their legal powers, in order to instrumentalize and politicize the views in favour of a distorted picture of internal developments in the country. It is irrefutable that police authorities have never responded to instances of non-violent and previously and orderly notified demonstrations, but only when the violence of individuals has threatened to put public security and peace at risk. The Government knows that the Special Rapporteur in her report does not distinguish between those police activities on the one hand and the legitimate efforts to combat terrorism and secession, which other European countries are also facing. The Government strongly opposes the attempt the use of terrorist activities conducted by some members of the Albanian minority in Yugoslavia, which are on the rise in Kosovo and Metohija and which are directed not only against the Serbian people living in the province but also against the persons

belonging to the Albanian minority who are opposed to a secessionist policy, for political purposes, qualifying combatting terrorism as a threat to human rights. Therefore, it is very difficult to accept the lack of any criticism and the very mention in the report of the problem of separatism in Kosovo and Metohija. The Government insists on the view that Kosovo and Metohija is an internal problem of the Republic of Serbia and the FR of Yugoslavia, and that it is unacceptable to internationalize this issue and impose outside solutions through precedence regarding the change of borders and that as such they constitute a threat to security and to all future relations, contributing to the heightening of tensions in Kosovo and Metohija.

On the other hand, the authorities of the Republic of Serbia and the FR of Yugoslavia remain consistently committed to the establishment of dialogue with members of all national minorities in Kosovo and Metohija including the Albanian national minority, in order to settle all issues in the mutual interest, without preconditions. Unrealistic ultimatums issued by the Albanian side as preconditions for dialogue concern an open demand for seceding a part of the territory of a sovereign state and for establishing parallel and underground authorities. We recall that in addition to the Albanian minority, persons belonging to other minorities also live in Kosovo and Metohija and that they are all enabled to enjoy the constitutionally and legally guaranteed rights and to the extent to which they want it. The Government notes with regret that the persons belonging to the Albanian minority, unlike the persons belonging to other, say, Turkish and Romany minorities, scared by the threats issued by the militant leaders of some Albanian parties and by some outside factors, have not used some of their basic rights relative to their participation in the political life of their country and in the decision-making process at all levels, in education and schooling etc. However, it notes at the same time the use of some other rights, namely those related to social security (pensions, insurance, etc.).

The Government of the FR of Yugoslavia makes a clear distinction between the rising terrorism perpetrated by the members of the Albanian minority and the very status of Kosovo and Metohija within the FR of Yugoslavia and Serbia. It recalls that the autonomous provinces within the Republic of Serbia - Vojvodina and Kosovo and Metohija - enjoy the degree of autonomy guaranteed by the Constitution and which represents one of the most extensive and all-inclusive degrees of such autonomy in Europe. The Government of Yugoslavia regrets that unlike the other minorities, the persons belonging to the Albanian national minority are the only ones who do not take advantage of the opportunities offered to them by the Constitution.

2. For the sake of avoiding replication of the same data in various UN documents, the Government of the FR of Yugoslavia wishes to point out herewith that it formally submitted its first report to the Committee against Torture for the 1991-1996 period concerning the implementation of the Convention against Torture or Any Other Cruel, Inhuman or Degrading Treatment or Punishment at the end of 1997. Yugoslavia ratified the Convention on 20 June 1991. The report also contains replies to other observations made in the report by the Special Rapporteur.

3. The Government of the FR of Yugoslavia ratified the International Convention on the Elimination of All Forms of Racial Discrimination in 1967. The Consolidated Report on the implementation of this Convention for the 1990-1996 period was considered at the 52nd session of the Committee on the Elimination of Racial Discrimination in Geneva, 12-12 March 1998. As in the case mentioned above, the Government report also contains some other responses to the observations contained in the report by the Special Rapporteur.

4. The Government of the FR of Yugoslavia notes with regret that these comments must repeat the serious objections over non-compliance with the letter of the Constitution and the laws of the FR of Yugoslavia and those of the Republic of Serbia insofar as territorial division of Serbia is concerned. The previous Special Rapporteurs have used the term "Sandzak" in their reports, even within the framework of a separate section on the subject implying thereby the existence of a separate administrative unit within the Republic of Serbia. In all the previous reports it was pointed out that, unlike the two autonomous provinces of Kosovo and Metohija and Vojvodina, the laws regulating territorial organization or division of the Republic of Serbia know no other territorial units, the so-called Sandzak included. Not withstanding this, the Special Rapporteur uses the terms from the arbitrary and politicized resolutions of the human rights Commission which contain many inaccuracies and untruths, instead of sticking to the Constitution of the country on which she submits report on the human rights situation.

We reiterate at the end that there are two autonomous provinces - Kosovo and Metohija (not "Kosovo" as it is referred to in the report) and Vojvodina within the Republic of Serbia. Sandzak is an abstract archaic term, a Turkish word describing an area which the sultans gave to their dukes for administration.

5. As far as cooperation between the FR of Yugoslavia and the International Criminal Tribunal for the former Yugoslavia is concerned, it has

been maintained within the framework of the Agreement between the FR of Yugoslavia and the United Nations on the Liaison Office of the Tribunal's Prosecutor in Belgrade. In this context, the FR of Yugoslavia complies with the Tribunal's orders to submit relevant documents; it allows the visits and work of many investigators of the Tribunal on its territory; it offers assistance in the establishment of contacts with victims and possible witnesses; it enables and facilitates cooperation with the competent Yugoslav local authorities in connection with cases pending before the Tribunal. Apart from the Liaison Office, the FR of Yugoslavia is in regular contact with the Registrar of the Tribunal and accepts all visits by officials of the Tribunal, including high-level ones.

Regrettably, it must be noted that there is a drastically uneven approach of the Tribunal regarding the three parties in Bosnia and Herzegovina. So far, only one legal action has been taken for crimes committed against the Serbs (the Celebic case), although there exist hard evidence on many other mass crimes against the Serbs submitted both by the Yugoslav authorities and by UN officials and many NGOs. Consequently, the excuse provided by the Prosecutor that due to the lack of cooperation on the part of the FR of Yugoslavia, they are not in a position to investigate and initiate proceedings against persons who have committed the crimes against Serbs is not adequate. The majority of the persons indicted by the Tribunal are Serbs. The crimes they have been charged with, although they are similar to those of which Muslims and Croats have been accused, as a rule, carry a more serious qualification - crimes of genocide and crimes against humanity. Additionally, the Prosecutor reacts in a very expeditious way and issues indictments against Serbs while delaying the issuing of similar indictments against Croats and Muslims.

Despite the fact that the officials of the Tribunal repeatedly point out that the Tribunal is an independent legal body, it is in actual fact a vehicle used to exert political pressure on the FR of Yugoslavia. Among other things, by making reintegration by the FR of Yugoslavia to international organizations and financial institutions and its participation in those organizations and institutions conditional upon its cooperation with the Tribunal.

The Tribunal also deals with issues that are outside its jurisdiction, such as determining the nature of the conflict in the territory of the former Yugoslavia (international or non-international) and the question of aggression or whether Republika Srpska acted as agent of the FR of

Yugoslavia and in that capacity attacked Bosnia and Herzegovina. Tribunal's orders on these issues contravene the positions of the international community and relevant international bodies and cannot be accepted.

These and other elements considerably undermine the confidence of the FR of Yugoslavia and its wider public in the impartiality of the Tribunal. On the other hand, this also provides the basis for the activities of the BH and Croatian parties aimed at revising the Dayton Agreement, which can in no way contribute to the consolidation of peace in the region.

Kosovo and Metohija

The Government of the FR of Yugoslavia notes with regret that the report by the Special Rapporteur fails systematically and fully to implement an objective and consistent value judgment in sofar as the portrayal of the situation in Kosovo and Metohija province is concerned.

Namely, the report does not use the Province's constitutional name - "Kosovo and Metohija" but exclusively the name "Kosovo" which is used by the separatist leadership of the Albanian national minority.

No open and organized terrorist actions, including murders of innocent civilians and police officers, attacks on State institutions, refugee reception centres in Kosovo and Metohija, etc., have so far been condemned by the Special Rapporteur in clear and unequivocal terms, or without the unjustified need to make a balancing act.

Although all the previous reports elaborately deal with the elections held at all levels over the past few years in Serbia and the FR of Yugoslavia, they never condemned the boycott of those federal and republican parliamentary and presidential elections by the separatist leadership of the Albanian national minority in Kosovo and Metohija. Similarly, no view is expressed regarding the underground elections announced by the separatist leadership there and "scheduled" for the end of March 1998, which is, should it stay that way, fully contrary to the approach, ambitions and consistency applied in reporting on all other issues related to the FR of Yugoslavia.

The reports do not refer to the Albanian national minority in Kosovo and Metohija as a "minority" or as the "persons belonging to the national minority", which is their constitutional status in the Republic of Serbia. Failure by the Special Rapporteur to use the constitutionally defined

status and the name "the Albanian national minority" creates the impression of an indirect support to the leadership of the separatist political parties of the Albanian national minority in Kosovo and Metohija advancing a theory that the persons belonging to the Albanian national minority in Kosovo and Metohija are not a national minority but a "nation", supporting it with the "argument" about their large numbers. It is worth mentioning that, within the framework of the general boycott, the persons belonging to the Albanian national minority deliberately refused to take part in the last census of 1991, so that this "argument" of theirs is not possible to verify officially.

Regrettably, even the official policy of neighbouring Albania has of late spoken about "a divided nation", claiming that the members of the Albanian national minority in Kosovo and Metohija are on their own land and that they are not a national minority. Those positions are along the lines of the Albanian policy of carving out the so-called Greater Albania against the interests of peace and stability in the region. Albania has, in violation of the UN Charter, the OSCE principles and a good-neighbourly cooperation, recognized the unconstitutional creation of the Albanian separatists in Kosovo and Metohija called "Republic of Kosovo" and enabled free activities of its "representation" in Tirana, thus directly interfering in the internal affairs of the FR of Yugoslavia and supporting separatism in Kosovo and Metohija.

The Government of the FR of Yugoslavia recalls this time again that persons belonging to national minorities and to other ethnic or religious groups in the FR of Yugoslavia are guaranteed all civil, political, economic, social and cultural rights in the broadest sense of the term, without any limitations or discrimination. The FR of Yugoslavia Government has provided detailed information to the Human Rights Commission and treaty bodies entrusted with the task of monitoring the implementation of the provisions of the human rights conventions which Yugoslavia has accepted long ago.

Regarding terrorism in Kosovo and Metohija *1), the FR of Yugoslavia Government wishes to point out some facts:

During the course of 1991, the Albanian separatists carried out 10 terrorist attacks in the Autonomous Province of Kosovo and Metohija area; in 1992 twelve such attacks; in 1993 eight of them; in 1994 six attacks; in 1995 eleven, and in 1996 as many as 30 terrorist attacks. Between January and 15 August 1997, seventeen terrorist actions were undertaken in the territory of the province.

Most of the terrorist acts in 1996 and until 15 August 1997 targeted primarily the facilities and officers of the Interior Ministry (31), then accommodations provided to the refugees from Republika Srpska and Krajina (7), civilians (6) and other establishments (3). One terrorist attack was launched against Yugoslav Army members. A total of 37 people died in these terrorist actions. Of this number 18 were police officers and 19 civilians, including 7 members of the Albanian national minority who were loyal to the FR of Yugoslavia and Serbia and for this reason, were on the Albanian terrorists' "hit" list. Fourteen persons (four police officers and 10 civilians) were killed, while 9 (5 police officers and 4 civilians) sustained light injuries.

In the course of 1997, 55 armed terrorist attacks were launched by Kosovo Albanian separatists, of this number 31 attacks were launched against the members and facilities of the Ministry of the Interior, 14 against the civilians, one against a justice administration official, one against a refugee centre and eight against other facilities.

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*1) Survey of the acts of terrorism perpetrated by the separatists of the Albanian minority in the region of Kosovo and Metohija in 1996-1997 is given in the Annex thereto.

In these attacks eleven people have been killed including one member of the Interior Ministry and 10 civilians. Fifteen people (8 Interior Ministry members and 7 civilians) have sustained serious injuries and 12 minor injuries (5 Interior Ministry members, two justice administration officials and 5 civilians). The attacks have also caused damage to 12 Interior Ministry facilities; seven tenements; two Orthodox Church temples; the seat of the municipality of Podujevo, 2 official and 18 private vehicles.

In order to repel attacks, Police have used firearms and shot dead 5 terrorist attackers.

Out of the above-mentioned number of terrorist attacks, 11 were mounted in the area of the Srbica municipality; nine in the areas of the

Podujevo municipality; six in the Decani and Klina municipalities; five in the Pec and Glogovac municipalities; three in the Vucitrn and Pristina municipalities; two in the Suva Reka municipality; one each in the municipalities of Djakovica, Prizren, Urosevac, Orahovac and Stimlje.

In these terrorist attacks the Kosovo Albanian separatists have used individually or in groups machine guns 24 times, machine guns and hand grenades six times, machine guns and a portable rocket launcher four times, machine guns and a self-propelling rocket once; a machine gun, hand grenade and a portable rocket launcher once; explosives eleven times; pistols and revolvers four times; hand grenades and a self-propelling rocket three times.

In the period from January to 2 March 1998, 63 organized armed terrorist attacks were carried out by the Albanian terrorists. Out of these, 15 were attacks on the facilities and members of the Interior Ministry of the Republic of Serbia (in Srbica 4 attacks; in Klina 3 attacks; in Orahovac and Podujevo 2 attacks each; in Stimlje, Urosevac, Glogovac and Decane one attack each). In these attacks, five members of the Interior Ministry were killed, four received serious and one slight injuries. In ten of the cases, the police officers were attacked while pursuing their duties. In four cases accommodations and homes of police officers came under attack, and in one case masked terrorist gunmen stopped and attacked private cars.

Forty-six terrorist attacks were launched on civilians, in which eight civilians died (in Klina two Serbs and one ethnic Albanian; in Glogovac two ethnic Albanians; in Srbica one Serb and one ethnic Albanian; in Decani one Serb), three people sustained serious injuries (in Pec two Serbs; in Decani one ethnic Albanian), while two Serbs and one ethnic Albanian were slightly injured.

Two attacks were launched on other facilities (Podujevo and Obilic) in which, except for the material damage done, there were no casualties.

In these attacks, the Albanian terrorists have used individually or in groups machine guns 21 times, machine guns and portable rocket launchers 14 times, an explosive device and hand grenades on one occasion, and physical force also on one occasion. In the remaining 25 cases, the Albanian terrorists issued threats to use firearms.

Forty-four criminal charges were pressed against unidentified perpetrators for the criminal act under Article 124 of the Penal Code of the FR of Yugoslavia.

In addition to terrorist attacks, 13 cases of stopping cars and asking for ID's and searches of vehicles and passengers by masked armed Albanian terrorists on some roads in AP Kosovo and Metohija were reported and three cases of intruders forcing their way into homes and other facilities.

On the basis of the measures taken, criminal proceedings have been instituted against the members of terrorist groups who participated in the preparation and staging of a large number of terrorist attacks on Interior Ministry members and civilians in Kosovo and Metohija during the 1993-1997 period. Some of these persons have been found to have received military training abroad, from where they illegally imported weapons intended for terrorist actions and an armed rebellion.

In 1996 and till 15 August 1997, criminal charges were filed against 74 persons who perpetrated acts of terrorism in the area of Kosovo and Metohija. Among those, the majority were members of illegal organizations and groups masterminding and directly involved in carrying out terrorist actions, who were found with the blueprints and sketches of military and police installations, post offices, medical centres, etc., which proves that they had planned extensive terrorist actions.

Legal guarantees for the protection of human rights
The right to a fair trial
Institutional mechanisms

1. The assessment of the report that international human rights covenants are almost never implemented in Yugoslav courts is beside the point. In light of the fact that the FR of Yugoslavia is a State Party to all these instruments and their provisions are built into its legal system through laws.

2. The question of detention and free access of lawyers to the arrested person or the harmonization of the Criminal Procedure Code with the Constitution will be addressed in the course of the forthcoming amendment of the Criminal Procedure Code.

3. The report also contains expressions like: serious doubt about whether the accused should have been found guilty. Such statements can only compromise the report and the Special Rapporteur since the courts are only authorized to determine whether a fact or a testimony may be taken as true and it is the court which is empowered to decide on whether defendant is guilty or not. Everything else may be qualified only as arbitrary interference with the work of independent judiciary.

4. As far as the proposal of the Special Rapporteur that the FR of Yugoslavia should introduce an Ombudsman-like mechanism is concerned, it is pointed out that this question will also be examined during the forthcoming process of improving the legal system.

5. Similarly, the issue of ratification of the Optional Protocols will be addressed as well. Regarding abolition of the death penalty, the discrepancy in this respect between the Federal Constitution and the constitutions of the Republics, attention is drawn to the fact that this issue cannot be dealt with in isolation from the crime situation in Yugoslavia which is, inter alia, also marked by very serious criminal offences which are defined by the laws of the Republics (e.g. grand larceny) and which have been committed in the last seven years. Bearing in mind that the FR of Yugoslavia will adopt a single Penal Code, the question of the death penalty will be dealt with in accordance with the Federal Constitution.

In practice, the death penalty is not frequently imposed and never as the only main punishment, rather it is commuted to term sentences.

The death penalty may be imposed only for the most serious criminal offences which carry such sentence by law. Death sentence may not be passed on a person under 18 or on a pregnant woman. The death sentence may be imposed on a person of age who has not turned 21 at the time of the commission of a criminal offence only for a crime against humanity and international law or against the armed forces of the FR of Yugoslavia.

Liberty and security of the person

Police ill-treatment, torture and impunity

1. As a rule police shall immediately inform the family of the arrested. Failures in that respect are possible, however, efforts are being made to prevent them from happening.

2. Instances of ill-treatment are extremely rare. The competent authorities officially reply to all justified enquiries regarding alleged abuse of position or police powers, whether made by the Special Rapporteur for the question of torture, Mr Rodley or by Special Rapporteur Elizabeth Rehn herself.

3. Criminal proceedings have been conducted in the Fourth Municipal Court in Belgrade regarding the Barovic case.

Right to life

1. The judicial authorities are conducting appropriate criminal proceedings in the cases of Blakcori and Restelica.

2. As regards the Pramenkovic case, the District Public Prosecutor of Uzice has said that the death of the above named has not been reported to him. In view of the fact that the Public Prosecutor is informed of every case where there is doubt about violent death, it is clear that the death did not occur in the territory of the FR of Yugoslavia.

Administration of justice

As far as the criteria for the appointment of judges are concerned, moral qualities of candidates and their professional skills are only taken into account.

Missing persons

Regarding the part of Elizabeth Rehn's report concerning missing persons, it does not project an objective picture reflecting the full complexity and difficulties encountered by the Yugoslav side in tracing missing persons, primarily in the Republic of Croatia. In particular, we point out that the report does not show that the Republic of Croatia has done nothing to locate the whereabouts of a large number of persons detained in Croatian prisons or whose fate is definitely known to the Croatian authorities. These involve numerous tracing requests by the Yugoslav side. For example, it has been 6 years that five Yugoslav pilots have been unaccounted for, although their fate is known to the Croatian authorities. Also, there is

a case of seven former JNA soldiers who had been in the army less then three months before they were arrested as well as the case of eleven reservists of the Niksic group and three reservists of the Savnik group. Of the 1079 case files related to the Croatian military offensives "Lightning" and "Storm", the Croatian side has, despite the obligation it has undertaken and despite the assurances given to the international organizations that this is the exact number, handed in only 347 files. That number is relevant inclusive the latest meeting of the two national commissions held in Zagreb in February 1998.

If the Special Rapporteur has made an objective analysis, it would clearly demonstrate that Croatia has most flagrantly violated the provisions of the Geneva Convention and the Dayton Peace Agreement, as well as the Agreement on Normalization of Relations between the Federal Republic of Yugoslavia and the Republic of Croatia and the Cooperation Protocol between the commissions of the FR of Yugoslavia and the Republic of Croatia which spelled out all the obligations very clearly.

On the other hand, by handing in 393 remaining files, the FR of Yugoslavia has fully complied with its obligations towards the Croatian side under the Cooperation Protocol.

More details about these issues which are of great importance to the Yugoslav side and first and foremost to the unfortunate families of the missing persons who by and large live in the FR of Yugoslavia, are to be found in a separate document of the question of the missing persons submitted by the FR of Yugoslavia at the current Commission session.

Annex II

S U R V E Y

of terrorist actions by ethnic Albanian separatists carried out in the territory of Kosovo and Metohija in 1996, 1997 and early 1998

a) Terrorist attacks on members and facilities of the Interior Ministry of the Republic of Serbia

1. On 22 April 1996, around 9.00 p.m., in the Kralja Petra I oslobodioca street, in Stimlje, an unidentified person ambushed and fired 13 shots from a machine gun killing a police officer of the Stimlje police station, Urosevac PD, Milenko Bucic of Brus.

2. On 22 April 1996, around 9.30 p.m., on the Rozaje-Pristina road, under the flyover in Kosovska Mitrovica, shots were fired from a 7.62 mm automatic weapon at an official vehicle of the Suva Reka police. Dragana Nesic (already interviewed by the police) was hit and killed in the incident, while police officer Slobodan Dudic was injured.

3. On 22 April 1996, around 7.00 p.m., near the railway station in Pec, Pec police station officers, Zoran Dasic and Safet Kocan were attacked with automatic weapons. While on a routine control of a stopped truck, the police officers were fired at from an automatic rifle. Both police officers were slightly injured.

4. On 16 June 1996, around 10.00 p.m., in Podujevo at an intersection of JNA and Vojvode Petra roads an armed attack with automatic weapons was launched on a moving police car driven by Podujevo police station officer, Pristina PD, Goran Mitrovic (1966) of Zitoradja. Officer Mitrovic sustained serious injuries. The vehicle bore 11 bullet scars and 26 cartridge cases for a 7.62 mm automatic weapon were recovered at the scene and the forensic findings revealed that they were fired from two different weapons.

5. On 17 June 1996, around 11.45 p.m., in the Sipolje settlement, municipality of Kosovska Mitrovica, terrorists ambushed and attacked with automatic weapon police officers in a moving official vehicle. Predrag Djordjevic (1968) was killed in the attack and Zoran Vukojicic (1966) was seriously injured. Both officers belonged to Kosovska Mitrovica PD.

6. On 17 June 1996, around 11.55 p.m., the police station in the village of Lucane, municipality of Podujevo, was attacked with automatic weapons and a hand grenade. Two police officers were in the building at the time. No one was injured and 22 cartridge cases belonging to an automatic weapon were recovered at the scene.

7. On 11 July 1996, around 1.00 p.m., outside a cafe "Fortuna" in Podujevo, a police officer of Podujevo police station, Pristina PD, Sredoje Radovic was ambushed and attacked with an automatic weapon. He sustained grave bodily harm.

8. On 30 July 1996, around 9.30 p.m., on the Pec-Pristina road, in the place called Dolac, municipality of Klina, automatic rifle was used to attack a police patrol of Klina police station, Pec PD, while the police car was moving in the direction of the police headquarters in Kijevo. One police officer was slightly injured in the attack.

9. On 2 August 1996, around 9.30 p.m., in Pristina, the first police precinct in Pristina came under attack with a hand grenade. There were no injuries in the attack.

10. On 2 August 1996, around 9.05 p.m., an automatic weapon and a hand grenade were used in the attack on the Krpimej police station, Pristina PD. The hand grenade did not explode and no one received any injuries from the automatic weapon.

11. On 2 August 1996, around 9.00 p.m., the Lucane police station, Pristina PD, was attacked with automatic weapons. A hand grenade used did not explode and there were no casualties.

12. On 2 August 1996, around 9.15 p.m., the Podujevo police station came under attack with an automatic rifle and a hand grenade. The exploding hand grenade caused fire in which 3 police vehicles and 3 vehicles belonging to the Podujevo municipality parked in the parking lot were burned along with

the municipal offices of the Red Cross in Podujevo and the offices of the Podujevo Municipality Registry. No one was injured in the incident.

13. On 28 August 1996, an automatic rifle and hand grenades were used in the attack on the Celopek pclice station, Pec PD. Fire was opened with the automatic rifle at the police station. Police officers fired back at the perpetrators who threw two hand grenades at the police station while retreating. None of the grenades exploded and there were no injuries.

14. On 28 August 1996, around 4.00 p.m., in the village of Donje Ljupce, municipality of Podujevo, a member of the Interior Ministry of the Republic of Serbia, Ejup Bajgora (1953), was killed by two unidentified attackers who waited for him to get off the bus on his way home and fired several shots at him from the 7.65 mm "Scorpio" pistol fatally wounding him.

15. On 31 August 1996, around 00.25 a.m., a terrorist attack was carried out on the police officers and the building of the Klina police station, Pec PD. A self-propelling rocket was fired and a hand grenade was thrown into the courtyard. The grenade exploded but luckily there were no casualties.

16. On 31 August 1996, an explosive device was used to attack a reserve policeman of the Pec PD, Milo Rajkovic. Unidentified attackers threw the explosive into the backyard of his home. The explosive went off, but no one was injured in the incident.

17. On 27 September 1996, around 8.50 p.m., two hand grenades were used to attack the Yugoslav Army barracks in Vucitrn, in which members of the Interior Ministry of the Republic of Serbia were also billeted. The exploding hand grenades did not inflict any injuries.

18. On 27 September 1996, around 8.45 p.m., the police station in Rudnik, Srbica PD, was attacked with an automatic weapon. There were no injured police officers in the attack.

19. On 27 September 1996, around 8.50 p.m., an automatic rifle was used in the attack on the security check point in Podujevo near the hotel "Toplica", where members of the Serbian Interior Ministry were accommodated. No one was injured in the incident.

20. On 25 October 1996, around 9.20 p.m., in the village of Surkis, municipality of Podujevo, an armed attack was launched on Milos Nikolic

(1962), a police officer of Pristina PD and Dragan Rakic (1954), a desk officer in the Labour Market Institute in Podujevo, while they were in a passenger vehicle. They both sustained fatal wounds. They were ambushed near the family home of the deceased Milos Nikolic.

21. On 15 November 1996, around 8.30 p.m., automatic weapons were used in the attack on Riznic police station, Djakovica PD, in which there were no injuries.

22. On 11 January 1997, terrorists attacked the home of Ljubisa Mitrovic in the village of Mijalic, municipality of Vucitrn, a reserve policeman of Kosovska Mitrovica PD. No one was injured in the attack.

23. On 31 January 1997, around 5.10 p.m., on the Pristina-Kosovska Mitrovica road, near the village of Nedakovac, municipality of Vucitrn, three unidentified perpetrators driving in a "Lada" car, registration PR 137-979, launched an armed attack by firing several gun shots at the police officers of the Pristina PD who were in a police vehicle. Two officers were injured. The officers used their weapons to fire in the direction of the attacking vehicle discharging several shots. Three attackers were wounded. They all died of the injuries sustained on the way to the hospital. The attackers were identified as Zahir Pajazit, who was one of the leaders of the "Kosovo Liberation Army" command, Hakif Zejnulah, who drove the vehicle and Edmond Hodzi.

24. On 21 March 1997, around 7.50 p.m., at an "Intertombola" games facility in Podujevo, Branko Milanovic (1961), a police officer of the Pristina PD, Podujevo police station, was attacked by terrorists while he was sitting at a table near the entrance. An unidentified attacker fired several revolver shots at him inflicting grievous bodily harm on him.

25. On 27 March 1997, around 7.35 p.m., a police station in Glogovac came under attack with an automatic weapon. Thirty shots were fired. The attack was launched while the commander of the station was headed for Pristina in a police car. There were no injured police officers in the attack.

26. On 16 May 1997, around 9.30 p.m., near the intersection of Vojvode Misica and Vojvodjanska road in Srbica, Srbica police officers belonging to the Kosovska Mitrovica PD, Miomir Kisovic and Radisav Planic while they were in civilian clothes, were attacked with automatic weapons. Miomir Kisovic sustained serious wounds and Radisav Planic slight wounds.

27. On 19 June 1997, around 3.45 p.m., in the village of Donje Ljupce, municipality of Podujevo, three members of the State Security Centre in Pristina were attacked with automatic weapons while they were in an official vehicle. 13 shots were fired from an automatic rifle in the direction of the vehicle, but no one was injured.

28. On 10 July 1997, around 11.20 a.m., on a village road in the village of Ovcarevo, municipality of Srbica, several shots were fired from a firearm at the police officer of the Srbica police, Kosovska Mitrovica PD, while they were in a moving official vehicle. Non of the officers were injured.

29. On 21 July 1997, in the village of Dolac, municipality of Klina, terrorists attacked with automatic weapons police officers of the Pec police, Tomasevic Slobodan and Zeljko Tomasevic who were in a moving police car. They remained unharmed.

30. On 3 August 1997, around 7.00 p.m., on the Podujevo-Krpimej local road near the village of Bradas, municipality of Podujevo, a police officer from Pristina, Milic Jovic was attacked while he was driving the police car in the direction of Pristina. Several bursts of gunfire were fired at the police car but Milic remained unharmed.

31. On 4 August 1997, around 09.50 a.m., on the Pec}-Kosovska Mitrovica regional road in the place called Kec Potok, municipality of Srbica, an attack was launched with automatic weapons on the officers of the Rudnik police station, Kosovska Mitrovica PD, who were moving in a police car in the direction of Pristina. Sgt. Major (police) Milomir Todic and police Sgt. Zoran Boskovic suffered serious injuries while Sulja Puljas of the village of Turicevac, Municipality of Srbica, who was in police custody, suffered minor injuries.

32. On 12 January 1998, around 00.05 a.m., in Stimlje a terrorist attack was launched with machine guns on a building (former primary school) in which 6 police officers of Stimlje Police and their families live. No one was injured in the attack. Out of a total of 30 shots fired, 10 hit the building with 2 of them ending up inside the apartment of police officer Vesko Ristovic. Criminal charges were pressed against unidentified perpetrators for the criminal offence of terrorism under Article 125 of the FR of Yugoslavia Penal Code (KU 1/98 of 13 January 1998, District Public Prosecutor's Office in Pristina).

33. On 24 January 1998, around 7.50 p.m., in the village of Malisevo, municipality of Orahovac, unidentified perpetrators carried out a terrorist attack with machine guns on the police patrol of Orahovac police within the Prizren PD. The patrolling officers were Bozidar Damjanovic, Zvonko Djordjevic and Goran Miladinovic who were in an official moving vehicle. The police officers returned fire with machine guns. Police officers Damjanovic and Djordjevic were wounded. Criminal charges were pressed against unidentified perpetrators for the criminal offence of terrorism under Article 125 of the FR of Yugoslavia Penal Code (KU 7/98 of 26 January 1998, Prizren District Public Prosecutors's Office).

34. On 24 January 1998, around 8.40 p.m., in the village of Grabanica, municipality of Klina, a terrorist attack was mounted with a rocket launcher on the house owned by Jagos Djuricic of Klincina police. A rocket was fired on the house from wooded area from a distance of about 200 metres. The roof was hit and a material damage of some 5,000 YU Dinars was caused by the ensuing explosion. At the time of the blast, his wife with two small children was in the house. There were no casualties. Criminal charges were pressed against unidentified perpetrators for the criminal offence of terrorism under Article 125 of the FR of Yugoslavia Penal Code (KU 43/98 of 26 January 1998, Pec).

35. On 26 January 1998, around 8.55 p.m. in the Danilo Kis Street in Urosevac, unidentified perpetrators threw an explosive into the backyard of the family home of Sinisa Marjanovic, where (in a separate house in the same backyard) a security officer from Urosevac Rajko Doder lives with his wife. There were no casualties. Criminal charges were pressed against unidentified perpetrators for the criminal offence of terrorism under Article 125 of the FR of Yugoslavia Penal Code (KU 43/98 of 27 January 1998, Urosevac).

36. On 27 January 1998, around 12.50 p.m. within the territory of the Turicevac village, municipality of Srbica, small arms fire was opened by several terrorists at the Republic of Serbia Interior Ministry's helicopter. Apart from the crew, officers of the Pristina PD Vlado Todorovic, Slavisa Manojlovic, Dragan Besevic and Bratislav Dikic were also on board. In order to repel the attack, the police officers returned fire with machine guns, automatic rifles and handguns. After landing, the crew noticed that the helicopter took a hit in the engine area. Criminal charges were pressed against unidentified perpetrators for the criminal offence of terrorism under Article 125 of the FR of Yugoslavia Penal Code (KU 10/98 of 12 February 1998, Kosovska Mitrovica).

37. On 28 January 1998, around 6.20 a.m. in the village of Istinic, municipality of Decani, authorized officers of Decani police and Pec security officers searched the family home of Arif Tahirsuljaj in order to arrest members of this family who belonged to an illegal hostile organization and to confiscate the weapons they held illegally. While the police were closing in on the house brothers Naser (1978) and Arben Tahirsuljaj (1980) opened fire from the second floor with an automatic rifle and handgun at two Pec security officers and three police officers. Police officer Ilija Buric was hit but the bullet lodged in his flak-jacket and he was unscathed. Decani police officers and Pec security officers opened fire to repel the attack and no one was injured. The search of the house found an automatic rifle with ammunition, three handguns, an air rifle, hunting ammunition, 150 g of gunpowder, one army rucksack, a gas mask and a "pony" binoculars which were all confiscated. The attackers were taken into custody and handed over to Pec security officers.

38. On 16 February 1998, around 10.35 p.m. at the security check point in the village of Pogradje, municipality of Klina, 5-6 unidentified perpetrators staged a terrorist attack with machine guns on the Republic of Serbia Interior Ministry officers. Police officers used fire arms to repel the attack. No police officer sustained any injuries. Criminal charges were pressed against unidentified perpetrators for the criminal offence of terrorism under Article 125 of the FR of Yugoslavia Penal Code (KU 99/98 of 18 February 1998, Pec).

39. On 19 February 1998, around 3.30 p.m. on the Podujevo-Pristina motor road, near the village of Donje Ljupce, municipality of Podujevo, unidentified terrorists ambushed a moving passenger car, M 615-563, killing Nebojsa Cvejic (1964), a Pristina security police officer. Criminal charges were pressed against unidentified perpetrators for the criminal offence of terrorism under Article 125 of the FR of Yugoslavia Penal Code (KU 23/98 of 24 February 1998, Pristina).

40. On 19 February 1998, around 8.00 p.m. on the Klina-Djakovica road near the village of Kramovik, municipality of Orahovac, five masked gunmen stopped a passenger car driven by Milenko Kandic of Decani police. Goran Perisic of the Krstovac village, municipality of Pec, was Kandic's passenger. Believing to be inspected by police officers, Kandic showed his official ID and the unidentified perpetrators order him out of the vehicle and physically attacked him and his passenger Perisic. Fifteen minutes later, they ordered them back into the vehicle and told them not report the case to the police because they would be killed.

41. On 19 February 1998, around 3.55 p.m. on the Kosovska Mitorvica-Pec road, at the Kec Potok location, municipality of Srbica, three masked gunmen stopped a passenger car driven by Zoran Boskovic of Srbica police. Having searched the car and passengers in it, they took away Boskovic's official weapon and allowed them to continue their journey to Kosovska Mitrovica. Criminal charges were pressed against unidentified perpetrators for the criminal offence of terrorism under Article 125 of the FR of Yugoslavia Penal Code (KU 16/98 of 25 February 1998, Pristina).

42. On 20 February 1998, around 10.00 p.m. in the village of Berkovo, municipality of Klina, unidentified perpetrators fired several sots from machine guns in the direction of the home of Labud Zivkovic, a police officer from Klina, Pec PD. At the time of the attack, Zivkovic was about to go to work. Machine gun fire was opened from an unidentified passenger vehicle which sped away at high speed in the direction of Klina. There were no casualties.

43. On 27 February 1998, around 9.50 p.m. in the Kralja Petra Street in Srbica unidentified perpetrators staged a terrorist attack on police officers providing security protection to a facility accommodating displaced persons. The attack was carried out with machine guns. Police officers used fire arms to repel the attack. There were no injuries on the part of police officers in the attack.

44. On 28 February 1998, around 6.35 p.m. terrorists attacked a Srbica police station with machine guns. Minor material damage was caused to the building. There were no injured police officers.

45. On 28 February 1998, between 11.30 a.m. and 12.20 p.m. on the Likosane village road, municipality of Glogovac three simultaneous armed terrorist attacks were launched by Albanian separatists on the Ministry of the Interior officers. At about 11.30 a.m. a Ministry official car was ambushed and attacked with rocket launchers and machine guns. Police officers Goran Milicevic, Milan Simic and Milan Djeric were in the vehicle. The nearest police patrol went to the scene to rescue them and were attacked in the village of Likosane for the second time. Police officers Miroslav Vujkovic and Goran Radojcic were killed and police officers Pavle Damjanovic and Slavisa Matejic were seriously wounded. An armoured vehicle was sent to the village as a back-up to the patrol under attack. While approaching the village at about 12.20. p.m., the vehicle was attacked from nearby houses with a rocket launcher and machine guns. After these attacks, Interior Ministry officers sealed off the facilities and the area where the attacks were perpetrated.

During the blockade and catching of terrorists, police officers Milan Jovanovic and Radoica Ivanovic were gravely wounded and they succumbed to the injuries they received. The terrorists opened fire at the Interior Ministry helicopter from which police officers returned fire.

In order to repulse the attack, Interior Ministry officers used fire arms and killed 16 terrorists while catching nine of them. Interior Ministry officials took five persons into custody in Prizren. They found larger amounts of weapons, mines and explosives as well as other devices intended for terrorist acts hidden by them.

In addition, the searches of the area and the houses from where armed terrorist attacks on police officers were mounted as well as the facilities used by terrorists, revealed two machine guns, four rifles, 130 hand grenades, 24 mortar shells, 13 kilograms of explosives, 40 detonating caps, 16 boxes of fuse, three timers, about 3,000 rounds of ammunition and 80 hand grenade detonators.

46. On 1 March 1998, around 9.50. p.m. the Krpimej police station, Podujevo PD, came under an armed terrorist attack. An unidentified perpetrator fired a burst of machine gun fire in the direction of the police station. Police officers returned fire. There were no injuries in the attack.

b) Terrorist attacks on civilian and other targets

1. On 21 January 1996, around 9.00 p.m., a hand grenade was thrown into the high school centre "Djuro Djakovic" in Podujevo, which provides accommodation for refugees and displaced persons from the Republika Srpska and Krajina, causing slight material damage.

2. On 11 February 1996, around 9.20 p.m., an activated hand grenade was thrown at the high school centre "9. maj" in Pristina, which provides accommodation for refugees. No one was injured in the incident.

3. On 11 February 1996, around 9.00 p.m., a hand grenade was thrown through the window into the facility for children lacking parental care "Aca Mitrovic" in Kosovska Mitrovica, which provides accommodation to the refugees and displaced persons, causing only material damage.

4. On 11 February 1996, around 9.15 p.m., in the high school centre in Vucitrn, which provides accommodation to the refugees, two hand grenades, which went off, were thrown into the classrooms, but there were no injuries.

5. On 11 February 1996, around 9.00 p.m., in Pec, an unidentified perpetrator activated a hand grenade outside the motel "Karagas", DD "Metohija turist" in Pec accommodating the refugees. There were no injuries in the incident.

6. On 11 February 1996, around 9.00 p.m., in Suva Reka, outside the hotel "Kristal" providing accommodation to the refugees, an unidentified perpetrator activated a hand grenade, which exploded and caused damage to the metal fence in the courtyard of the hotel and smashed several windows.

7. On 22 April 1996, around 9.45 p.m., several hooded persons opened automatic gunfire and activated a hand grenade against a restaurant "Cakor" Decani. Blagoje Okuka (1953) of Pancevo, Djordje Dragic (1950) of Belgrade and Stana Radusinovic (1948) of Decani died in the incident, while Branko Babic (1948) of Pristina was injured. After the attack unidentified terrorists fled to the villages of Crni and Beli Breg, shooting at the tea-shop owned by Avdulah Djikokaj and at the textile shop owned by Brahim Ibrehusaj.

8. On 27 September 1996, around 9.00 p.m., in Glogovac, the former Kosovo-trans management building, providing accommodation to the refugees, was attacked with automatic weapons. There were no injuries.

9. On 26 December 1996, around 4.00 p.m., in Pristina, in the hospital grounds, the criminal offence of attempted murder under Article 47 of the Penal Code of the Republic of Serbia in connection with Article 19 of the FR of Yugoslavia Penal Code, was committed against Faik Belopolja, forestry worker employed at JP "Srbija Sume". Faik Belopolja died several days later at the Clinical Hospital Centre in Pristina. Three 7.62 mm cartridge cases were recovered on the scene.

10. On 9 January 1997, around 5.00 p.m., in Ul. Stevana Sindjelica in Podujevo, a criminal offence of murder was committed against Malic Zeholi of Podujevo, who was murdered because he was loyal to the Republic of Serbia. Two 6.62 mm pistol cartridge cases were recovered on site.

11. On 16 January 1997, in Pristina, an explosive planted under an "Opel-Cadet" car was probably activated by remote control at the moment when an "Audi" car owned by the University of Pristina moved past. University Chancellor Radivoje Papovic (1947) and his driver were seriously injured. The car was totally destroyed in the blast and several dozen windows on the housing block were smashed within the range of about 400 metres.

12. On 5 March 1997, around 10.45 a.m., in Pristina, outside the Faculty of Philosophy, 3-4 kilos of explosives planted in the rubbish container were activated by remote control. One person sustained serious and three persons slight injuries. After the scene was sealed off, the police recovered 4.4 kilos of explosives with a remote control at the Vuk Karadzic statue outside the faculty which were destroyed in a safe explosion.

13. On 25 March 1997, in the village of Sicevo, municipality of Klina, a group of terrorists ambushed and launched an armed attack on Haziraj Fehmi, Isuf Halataj and Mehmed Gasi, all from Klina. Fehmi Haziraj and Isuf Halataj were killed while Mehmed Gasi remained unscathed in the attack.

14. On 10 April 1997, around 07.00 a.m., in the village of Banjica, municipality of Glogovac, the criminal offence of murder was committed against Ramiz Ljeku, a local resident. The murder was perpetrated while the victim drove his car, the motive was that Ramiz Ljeku was loyal to the Republic of Serbia. Fourteen 7.62 mm automatic rifle cartridge cases were recovered at the scene along with two 9 mm bullets and an activated but unexploded hand grenade.

15. On 9 June 1997, around 00.05 a.m., in Vucitrn, a hand grenade was thrown at the concrete plateau outside the apartment building in Ul. Dedovica 2, by unidentified perpetrators. There were no injured persons in the explosion and the material damage was caused to the bar "Lovac", coffee bar "Kastelo", store DD "Cicavica" and to a car, registration NK 320-44.

16. On 4 August 1997, around 3.20 p.m., in the village of Komorane, municipality of Glogovac, two masked perpetrators attacked Idriz Njisori (1952) of the same village with automatic rifles. Idriz Njisori was driving his car accompanied by his wife. Idriz Njisori sustained serious injuries.

17. On 9 January 1998, around 9.10. p.m. in the village of Stepenice, municipality of Klina, unidentified perpetrators ambushed and killed with machine guns Djordje Belic (1938) from the same village while he was in the back yard of his family home. Criminal charges were pressed against unidentified perpetrators for the criminal offence of terrorism under Article 125 of the FR of Yugoslavia Penal Code (KU 15/98 of 12 January 1998, Pec).

18. On 12 January 1998, around 8.45. a.m. on the village road in Gradica, municipality of Glogovac, unidentified perpetrators killed with machine guns Mujo Sejdi (1946), a forester of "Srbijasume", Glogovac section. They waited for him around his home and killed him by firing 28 shots into him

from a machine gun. Criminal charges were pressed against unidentified perpetrators for the criminal offence of terrorism under Article 125 of the FR of Yugoslavia Penal Code (KU 1/98 of 13 January 1998, Pristina).

19. On 13 January 1998, around 12.15. a.m. in the territory of the Kocice village, municipality of Srbica, seven masked people armed with machine guns intercepted around a TV mast Jordan Nicic, forest worker of DP "Srbijasume", territory of Srbica. They asked him to light them a cigarette. One of them caught both of his arms from behind while the other attacker took his gun from the belt in order to threaten him and forbid him to come to this area. Criminal charges were pressed against unidentified perpetrators for the criminal offence of terrorism under Article 125 of the FR of Yugoslavia Penal Code (KU 12/98 of 20 February 1998, Kosovska Mitrovica).

20. On 16 January 1998, around 5.30. p.m. in the village of Lausa, municipality of Srbica, three unidentified attackers stopped a "Mercedes" motor car bearing German number plates, driven by Djavid Salja (1949) of Pristina. His girlfriend was with him in the car. Unidentified perpetrators wearing camouflage uniforms and black hoods on their heads, armed with machine guns, took Salja out of the vehicle telling him that he went to spy on them and that they were going to execute him. They told him get in the car with them and he obeyed. After driving for several kilometres, the vehicle got stuck in the mud, the hooded gunman took Salja out and beat him with rifle butts, punched him and kicked him all over his body inflicting minor bodily harm on him and they walked away. Criminal charges were pressed against unidentified perpetrators for the criminal offence of terrorism under Article 125 of the FR of Yugoslavia Penal Code (KU 9/98 of 6 February 1998, Kosovska Mitrovica).

21. On 23 January 1998, Enver Hoti of the Josanica village, municipality of Klina, reported to the duty officer at Klina police station, Pec PD, that on 21 January 1998 at about 3.00. p.m., he noticed a "Mercedes" car, registration KM 65-85, on the village road leading to the village of Bica. A male body was in the car. A police team with the investigating judge of the District Court in Pec went to the site. They established that the victim was Desimir Vasic (1948) of the village of Korilje, Municipality of Zvecan, was and entrepreneur and councillor in the Zvecan Council. The Albanian terrorists fired 26 shots into him from machine gun. Criminal charges were pressed against unidentified perpetrators for the criminal offence of terrorism under Article 125 of the FR of Yugoslavia Penal Code (KU 42/98 of 26 January 1998, Pec).

22. On 22 January 1998, at about 9.10. a.m. in the village of Lausa, municipality of Klina, a "Kosmet prevoz" bus was stopped by unidentified perpetrators. Unidentified persons in civilian clothes wearing black hoods and armed with machine guns and one rocket launcher dragged from the bus Blagoje Nikolic (1952) of the Drsnik village, Municipality of Klina, security officer at the hunting munitions factory in Srbica and struck him several times with rifle butts over his head and body. Nikolic sustained light bodily harm. Criminal charges were pressed against unidentified perpetrators for the criminal offence of terrorism under Article 125 of the FR of Yugoslavia Penal Code (KU 5/98 of 29 January 1998, Kosovska Mitrovica).

23. On 22 January 1998, around 1.00. p.m. in the village of Lausa, municipality of Srbica, five unidentified hooded gunmen intercepted a "Yugo" car having Kosovska Mitrovica number plates and driven by Ljiljana Ilijev (1952) of Srbica, while Darinka Azdekovic was her passenger. Unidentified persons checked their IDs and searched the vehicle allowing them to drive on in the direction of the Devic monastery. Criminal charges were pressed against unidentified perpetrators for the criminal offence of terrorism under Article 125 of the FR of Yugoslavia Penal Code (KU 8/98 of 6 February 1998, Kosovska Mitrovica).

24. On 22 January 1998, around 2.50. p.m. in the village of Lausa, municipality of Srbica, hooded persons armed with machine guns intercepted and "Opel-vectra" vehicle having Kosovska Mitrovica number plates and driven by Dragisa Rakic (1959) of the village of Zupce, Municipality of Zubin Potok. After the vehicle was stopped, eight other persons wearing civilian clothes and hoods emerged from the undergrowth nearby. They also carried machine guns. After checking the ID and searching Dragisa Rakic and another ethnic Albanian whom the former picked up as a hitchhiker in the nearby village of Lausa, they swore at them and cursed them. Rakic was also issued a threat not to drive in the territory of the "Kosovo Republic". Criminal charges were pressed against unidentified perpetrators for the criminal offence of terrorism under Article 125 of the FR of Yugoslavia Penal Code (KU 7/98 of 6 February 1998, Kosovska Mitrovica).

25. On 22 January 1998, around 1.00. p.m. in the village of Lausa, municipality of Srbica, five unidentified hooded persons armed with machine guns (one of them was wearing a camouflage uniform) stopped an official car owned by DP "Kosovo sirovina". The manager of the company Dragutin Pavicevic and his driver Petko Sarevic were in the car. The unidentified perpetrators checked their IDs and searched the car and the passengers. They introduced themselves as members of the Kosovo Liberation Army. While the car was

searched there were another 10 armed terrorists on the elevation on their left-hand side. Criminal charges were pressed against unidentified perpetrators for the criminal offence of terrorism under Article 125 of the FR of Yugoslavia Penal Code (KU 6/98 of 6 February 1998, Kosovska Mitrovica).

26. On 25 January 1998, around 7.30. p.m. in the village of Turicevac, municipality of Srbica, seven unidentified hooded persons wearing camouflage uniforms and armed with machine guns entered the shop where Haljim Sahiti of the village of Gornji Obilic, Municipality of Srbica, is a watchman. At gunpoint they took away Haljim's hunting rifle and handgun and they drove away in "Golf" and "Ascona" vehicles. Criminal charges were pressed against unidentified perpetrators for the criminal offence of terrorism under Article 125 of the FR of Yugoslavia Penal Code (KU 2/98 of 30 January 1998, Kosovska Mitrovica).

27. On 27 January 1998, around 11.30. a.m. at the place of Turicevac, municipality of Srbica, unidentified persons stopped "Zastava 640" freight truck having Kraljevo number plates and driven by Veroslav Vukojicic of Raska. The unidentified persons of whom one wore camouflage uniform trousers and all armed with machine guns took away Vukojicic's ID documents, his bank card, DM 500.- and a wrist watch while checking his identity. They beat him with machine guns and rubber truncheons inflicting slight injuries to his head. Criminal charges were pressed against unidentified perpetrators for the criminal offence of terrorism under Article 125 of the FR of Yugoslavia Penal Code (KU 4/98 of 29 January 1998, Kosovska Mitrovica).

28. On 27 January 1998, around 7.00 a.m., in the vicinity of the village of Banjica, municipality of Glogovac, two unidentified persons in fatigues intercepted Isuf Kukic from Trstenik village, who was hunting. They seized his gun and left the scene for an unknown destination. Criminal charges were pressed against unidentified perpetrators for the criminal offense of terrorism under Article 125 of the FR of Yugoslavia Penal Code (KU 14/98 of 30 January 1998, Pristina).

29. On 8 February 1998, around 10.00 p.m., 10 masked gunmen armed with automatic rifles came to the backyard of a family house owned by Ramaj Redjep (1950) in the village of Trdevac, municipality of Glogovac. They threatened Ramaj demanding his hunting rifle and gun which he had licence for, and his father Sinan obeyed. After surrendering the arms the unidentified persons said they were members of the Kosovo Liberation Army. Criminal charges were pressed against unidentified perpetrators for the criminal offense of

terrorism under Article 125 of the FR of Yugoslavia Penal Code (KU 15/98 of 20 February 1998, District Public Prosecutor's Office, Pristina).

30. On 10 February 1998, around 8.00 p.m. a number of masked gunmen entered the house owned by Muljaj Ramadan in the village of Trstenik, municipality of Glogovac and threatening him with arms demanded that he surrendered arms. Muljaj complied and gave them a hunting rifle for which he had a proper licence. Criminal charges were pressed against unidentified perpetrators for the criminal offense of terrorism under Article 125 of the FR of Yugoslavia Penal Code (KU 9/98 of 20 February 1998, District Public Prosecutor's Office, Pristina).

31. On 10 February 1998, around 7.00 p.m. a number of masked gunmen came to the house owned by Kukuci Imer in the village of Trstenik, municipality of Glogovac, threatened him demanding he surrendered arms. He complied and gave them a hunting rifle for which he had a proper licence. Criminal charges were pressed against unidentified perpetrators for the criminal offense of terrorism under Article 125 of the FR of Yugoslavia Penal Code (KU 10/98 of 20 February 1998, District Public Prosecutor's Office, Pristina).

32. On 10 February 1998, around 8.00 p.m. a number of masked gunmen came to the house owned by Kukuci Salih in the village of Trstenik, municipality of Glogovac, and threatened Kukuci asking him to surrender arms. He complied and gave them a hunting rifle for which he had a proper licence. Criminal charges were pressed against unidentified perpetrators for the criminal offense of terrorism under Article 125 of the FR of Yugoslavia Penal Code (KU 11/98 of 20 February 1998, District Public Prosecutor's Office, Pristina).

33. On 10 February 1998, around 8.00 p.m. a number of masked gunmen came to the house owned by Kukuci Bajram in the village of Trstenik, municipality of Glogovac, and threatened Kukuci asking him to surrender arms. He complied and gave them a hunting rifle for which he had a proper licence. Criminal charges were pressed against unidentified perpetrators for the criminal offense of terrorism under Article 125 of the FR of Yugoslavia Penal Code (KU 12/98 of 20 February 1998, District Public Prosecutor's Office, Pristina).

34. On 10 February 1998, around 7.15 p.m. a number of masked gunmen came to the house owned by Kukuci Rizah in the village of Trstenik,

municipality of Glogovac, and threatened Kukuci asking him to surrender arms. He complied and gave them a hunting rifle for which he had a proper licence. Criminal charges were pressed against unidentified perpetrators for the criminal offense of terrorism under Article 125 of the FR of Yugoslavia Penal Code (KU 13/98 of 20 February 1998, District Public Prosecutor's Office, Pristina).

35. On 12 February 1998, around 10.00 a.m. in the village of Turicevac, municipality of Srbica, a passenger vehicle "Moskvich Aleko" with foreign registration plates was stopped. The car was driven a Bulgarian national Angel Borisov (1963) and he had two other passengers in the car. Their vehicle was stopped by another "Lada" vehicle with no registration plates, which overtook the first car. An unidentified person armed with an automatic rifle and a handgun came out of the car. He ordered them to turn the vehicle and take the first side road. The driver asked them that Marija Petrova and Atanaska Lazareva do not go with them as they were afraid. The unidentified person that order Angel to go over to "Lada" by himself and they took the side road. They put some sort of a hood on Angels head. After a while, Angel was released. Nothing was taken from Bulgarian nationals. Criminal charges were pressed against unidentified perpetrators for the criminal offense of terrorism under Article 125 of the FR of Yugoslavia Penal Code (KU 15/98 of 25 February 1998, Kosovska Mitrovica).

36. On 13 February 1998, around 7.00 a.m. in the village of Gornje Obrinje, municipality of Glogovac, Mustaf Kurtaj (1971) from the same village, employ of the PTT "Srbija-Glogovac" was killed by the Albanian terrorists. A few unidentified persons waited for Mustafa on a bus station at the time when he usually left for work and shot him several times from an automatic rifle. Criminal charges were pressed against unidentified perpetrators for the criminal offense of terrorism under Article 125 of the FR of Yugoslavia Penal Code (KU 8/98 of 16 February 1998, Pristina).

37. On 13 February 1998, around 11.00 p.m. a number of masked gunmen came to the house owned by Lek Kuci in the village of Leskovac, municipality of Klina, and threatened Kuci asking him to surrender arms. He complied and gave them two hunting rifles and a handgun. Criminal charges were pressed against unidentified perpetrators for the criminal offense of terrorism under Article 125 of the FR of Yugoslavia Penal Code (KU 116/98 of 24 February 1998, Pec).

38. On 13 February 1998, around 10.00 p.m. a number of masked gunmen came to the house owned by Bibaj Mikelj from the village of Renovac,

municipality of Klina, and threatening him with arms asked Mikelj, former police officer of Kosovska Mitrovica PD, to surrender arms. Since he did not have any, they took him to the house of Hilj Jaku from whom they seized a hunting rifle threatening him with arms and a handgun from his son Jaku Marjan. After that the went to the house of Merdita Pren from whom they sized a hunting rifle, then to the house of Kuci Djerdj and seized a handgun, and Lek two hunting guns and a gun from the house of Kciraj Zef a hunting rifle. Criminal charges were pressed against unidentified perpetrators for the criminal offense of terrorism under Article 125 of the FR of Yugoslavia Penal Code (KU 117/98 Kuci Djerdj; KU 118/98 Merdita Pren; KU 119/98 Zef Kciraj; KU 120/98 Jaku Hilj; KU 121/98 Jaku Marjan and KU 122/98).

39. On 16 February 1998, around 12.00 (noon) in the village of Lausa, municipality of Srbica, 3 unidentified gunmen armed with automatic rifles stopped a freight vehicle bearing Novi Pazar registration plates, driven by Idajet Camic accompanied by Alibasic Nusret. The unidentified persons asked them to produce IDs and let them go. Criminal charges were pressed against unidentified perpetrators for the criminal offense of terrorism under Article 125 of the FR of Yugoslavia Penal Code.

40. On 19 February 1998, around 4.00 p.m. in the village of Vitak, municipality of Srbica, five stopped a passenger vehicle driven by Tomasevic Goran (1971) from the village of Suvo Grlo, and then the "Kosovotrans" bus operating Srbica-Suvo Grlo direction, which came in the meantime. They order all passengers whose surnames were Tomasevic, Kovacevic and Jokic to come out of the bus. After they got out, they lined them up and threatened that they will shoot them. After a while they allowed them to proceed. Criminal charges were pressed against unidentified perpetrators for the criminal offense of terrorism under Article 125 of the FR of Yugoslavia Penal Code (KU 18/98 of 25 February 1998, Kosovska Mitrovica).

41. On 20 February 1998, around 1.30 p.m. on the Klina-Srbica road, in the village of Lausa, municipality of Srbica, a number of masked gunmen launched a terrorist attack on persons riding in a freight motor vehicle bearing Kosovska Mitrovica registration plates. The attack was carried out by automatic fire arms, and Murat Dajakaj (1960) from Rakitica village, riding in a co-driver seat was killed whereas driver Miletic Milan (1945) continued to drive unharmed. Criminal charges were pressed against unidentified perpetrators for the criminal offense of terrorism under Article 125 of the FR of Yugoslavia Penal Code (KU 13/98 of 24 February 1998, Kosovska Mitrovica).

42. On 20 February 1998, around 4.00 p.m. in the village of Lausa, municipality of Srbica, unidentified masked persons carried out a terrorist attack against persons riding in a freight vehicle with Prizren registration plates, killing from automatic weapons Ristic Milorad (1938) from Djakovica, while Djuricic Zdravko (1956) from Velika Hoca, municipality of Orahovac sustained minor injuries. Criminal charges were pressed against unidentified perpetrators for the criminal offense of terrorism under Article 125 of the FR of Yugoslavia Penal Code (KU 14/98 of 24 February 1998, Kosovska Mitrovica).

43. On 20 February 1998, around 7.00 p.m. four unidentified masked persons armed with automatic rifles came to the house of Krasnici Haljit from Gladno Selo, municipality of Glogovac, and seized his hunting rifle for which he had a proper licence. Criminal charges were pressed against unidentified perpetrators for the criminal offense of terrorism under Article 125 of the FR of Yugoslavia Penal Code (KU 16/98 of 23 February 1998, District Public Prosecutor's Office in Pristina).

44. On 21 February 1998, around 5.45 p.m. near Farming cooperative "Dobra voda", municipality of Klina, three unidentified persons killed Recaj Alija (1960) from the Sicevo village, municipality of Klina. Before that, around 3.00 p.m. unidentified persons in a "Lada" vehicle came to the house of Recaj Alija and after a brief conversation took him to the above placed and killed him by an automatic rifle. Criminal charges were pressed against unidentified perpetrators for the criminal offense of terrorism under Article 125 of the FR of Yugoslavia Penal Code (KU 109/98 of 23 February 1998, Pec).

45. On 22 February 1998, around 7.00 p.m. two unidentified masked persons armed with automatic rifles presenting themselves as "Liberation Army of Kosovo" came to the house of Beris Hazir in the village of Gladno Selo, municipality of Glogovac, threatened and took a hunting rifle from Hazir for which he had a proper licence. Criminal charges were pressed against unidentified perpetrators for the criminal offense of terrorism under Article 125 of the FR of Yugoslavia Penal Code (KU 17/98 of 23 February 1998, District Public Prosecutor's Office in Pristina).

46. On 28 February 1998, around 7.10 p.m. in the village of Donji Ratis, municipality of Decani, a terrorist attack on the house of Culafic Nastadin was launched by unidentified persons. They fired a cumulative grenade from a distance of 30 m from his house. It hit the roof and made a crater in the wall. After that the unidentified attackers fired several burst of fire, three of them hit the house. There were no injured persons. Material damage is estimated at 2,000 YU dinars.

47. On 28 February 1998, around 7.40 p.m. in the village of Donji Ratis, municipality of Decani, a terrorist attack was launched on the house owned by Cazim Salja. The perpetrators were several unidentified persons who fired a rocket from a portable rocket-launcher. The shell hit the roof of the house, inflicting minor material damage. There were no injuries.

48. On 1 March 1998, around 10.15 p.m., in the village of Erec, municipality of Djakovica, an armed terrorist attack was staged against the home of Tomislav Lukic (1939), a retired police officer. The perpetrators were several Albanian terrorists who fired one self-propelling rocket and several shots from a machine gun hitting the house while the owner was in it. No one was injured.

49. On 2 March 1998, around 01.00 a.m. in the village of Dobri Do, municipality of Klina, one shell was fired into the roof of the family home owned by Radmila Belic inflicting material damage. Several rounds were also fired from machine guns in the direction of the house.

50. On 2 March 1998, around 01.10 a.m., in the village of Bec, municipality of Djakovica, a terrorist attack was launched with a rocket launcher and machine guns at the houses of Blagoje Djakovic, Radisav Mitic and Bosko Lakic. There were no casualties.

51. On 2 March 1998, around 01.30 a.m., in the village of Papracani, municipality of Decani, a terrorist attack was mounted with a rocket launcher and machine guns at the house owned by Gani Salja. The roof and the wall of the house were damaged. There were no injuries in the attack.

52. On 2 March 1998, around 02.30 a.m., in the village of Crmljane, municipality of Djakovica, a terrorist attack was launched with a rocket launcher, machine guns, and a hand grenade which did not explode. The target of the attack was the house owned by Radenko Fatic which was damaged in the attack. There were no injured persons. Fatic's son Branislav returned fire from a rifle, shooting at the terrorists.

53. On 2 March 1998, around 02.00 a.m., in the village of Dolovo, municipality of Klina, the home of Dragoje Garic came under attack from a rocket launcher. One shell was fired which hit the roof damaging it. There were no casualties.

54. On 2 March 1998, around 02.30 a.m., in the village of Kpuz, municipality of Klina, several rounds of machine gun fire were fired at the

house owned by Dragan Nenadovic, hitting the facade and roof. At a distance of about 200 m from the house, one unfired shell was found.

55. On 2 March 1998, around 04.15 a.m., in the village of Erec, municipality of Djakovica, terrorist attack was staged with a rocket launcher and machine guns at the house owned by Tomislav Lukic (1939), retired police officer. His home was damaged. There were no casualties.

56. On 2 March 1998, around 4.00 p.m., in the village of Donji Ratis, municipality of Decani, several Albanian terrorists launched an armed terrorist attack at Slobodan Prascevic (1945) of Djakovica, a retired police commander of Rznic police station, Decani DP. The terrorists ambushed him and fired several shots from machine guns at the car driven by Prascevic while Igbal Tahiraj and his son Antun Tahiraj, both from Donji Ratis, were in the vehicle. Prascevic was killed and Igbal Tahiraj sustained serious injuries.

57. On 2 March 1998, around 10.30 p.m. in the village of Krusevac, municipality of Pec, a terrorist attack was stage against Perko Boskovic (1951) and his cousin Bosko Boskovic (1978), both from the same village. The perpetrators were several Albanian terrorists who surprised them and beat them inflicting serious bodily harm on them.

Note: The foregoing does not include terrorist attacks on other targets, intrusions of terrorists into family homes, interception, carjackings, physical harassment of passengers on public transport, putting up roadblocks, etc.

c) Apart from these, the following terrorist attacks were perpetrated in Kosovo and Metohija by place of attack:

Srbica	
village of Branici	13 January 1997
Srbica	17 January 1997
Srbica	16 May 1997
Los Potok	04 August 1997
Rudnik	11 September 1997
Srbica	25 November 1997
village of Vojnik	26 November 1997
Srbica-Klina road	15 December 1997

village of Josanica	19 December 1997
village of Josanica	22 January 1998
Srbica-Klina road	23 January 1998
Srbica-Klina road	27 January 1998
Srbica-Klina road	16 February 1998
village of Josanica	20 February 1998
village of Laus	20 February 1998
Klina main road	25 March 1997
village of Loznice	05 May 1997
Pristina-Pec road	22 July 1997
Klina	11 September 1997
Kijevo	14 September 1997
village of Stepenice	10 January 1998
village of Grabnica	24 January 1998
village of Rakovina	19 February 1998
village of Dobrovoda	23 February 1998
Pes	22 April 1996
Breznik settlement	31 August 1996
village of Balince	23 September 1997
Celopek	14 October 1997
village of Klincina	11 September 1997
village of Klincina	15 or 16 October 1997
Kosovska Mitrovica	22 April 1996
Sipolje settlement	17 June 1996
Kosovska Mitrovica	19 June 1996
village of Rudnik	27 September 1996
Vucitrn	27 September 1996
village of Mijalic	11 January 1997
on the main road	02 February 1997
Decani	22 April 1996
village of Rznic	16 November 1998
Decani	25 August 1997
Decani	11 September 1997
Babovic settlement	16/17 October 1997
village of Rznic	26 November 1997
village of Istinic	28 January 1998
village of Babaloc	26 February 1998
Djakovica	
village of Zub	25 August 1997
Podujevo	19 June 1996
Podujevo	11 July 1996
Podujevo	02 August 1996

Krpimej	02 August 1996
Luzani	02 August 1996
Donje Ljupce	28 August 1996
Podujevo	27 September 1996
village of Surkis	25 October 1996
Podujevo	09 January 1997
Podujevo	21 March 1997
Donje Ljupce	19 June 1997
Podujevo-Krmpelj road	03 August 1997
village of Krpimlje	03 September 1997
Luzani	13 September 1997
Podujevo	05 November 1997
Podujevo	25 December 1997
Zakut	25 December 1997
Glogovac	27 March 1997
Banjica	10 April 1997
Glogovac	03 July 1997
Glogovac	04 August 1997
Glogovac	11 September 1997
village of Komoran	18 November 1997
village of G. Obrinje	13 February 1998
Staro Cikatovo	15 February 1998
village of Likosane	28 February 1998
Pristina	02 August 1996
Besinje	26 December 1996
Pristina	16 January 1997
Pristina	05 March 1997
village of Sibovac	28 January 1998
Stimlje	22 April 1996
Stimlje	12 January 1998
Stimlje	19 January 1998
Urosevac	
village of Grlica	17 September 1997
Bujanovac	
village of Letovica	25 April 1997
Suva Reka	11 September 1997
Orahovac	
village of Ratkovac	11 September 1997
Gnjilane	
village of Milesevo	24 January 1998
Celopek	28 August 1996

Pec	**09 March 1998**
Rakitnica	**16/17 January 1997**
	20 February 1998
Srbica	**23 August 1997**
Brabonjic	**13 January 1997**
Trstenik	**03 July 1997**
Gradica	**12 January 1998**
Podujevo	**26 December 1996**
Donje Ljupce	**28 August 1996**
Komoran	**23 January 1998**
Petrastica	**28 November 1997**

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Agenda item 8

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

Letter dated 31 March 1998 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations Office at Geneva addressed to the Chairman of the fifty-fourth session of the Commission on Human Rights*

I have the honour to refer to the report of the Special Rapporteur on the Independence of judges and lawyers on his mission to the United Kingdom of Great Britain and Northern Ireland in October 1997 (E/CN.4/1998/39/Add.4). I enclose an official response from my Government and request that it be circulated as an official document of the Commission on Human Rights.

(Signed): RMJ LYNE
Ambassador
Permanent Representative

* The annex is reproduced as received, in the language of submission only.

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RESPONSE TO THE CONCLUSIONS AND RECOMMENDATIONS TO THE UN SPECIAL RAPPORTEUR'S REPORT.

We welcome the report of the UN Special Rapporteur on the Independence of Judges and Lawyers, Mr Cumaraswamy, following his visit to the United Kingdom in October 1997. Britain fully supports the UN's human rights machinery of which the system of Special Rapporteur's is a key element. We are pleased that Mr Cumaraswamy has noted the positive steps that the United Kingdom has taken to ensure the independence of its judiciary but are concerned about his comments about the harassment of defence lawyers. We are examining these closely. Meanwhile, we are forwarding some information relating to specific points made in the Special Rapporteur's report.

The Harassment And Intimidation Of Solicitors.

We have considered carefully the Special Rapporteur's comments on "the harassment and intimidation of solicitors". The conclusion, in paragraph 90, is " that the RUC has engaged in activities which constitute intimidation, hindrance, harassment or improper interference".

This obviously is a matter of considerable concern. We would ask, however, to be provided with the specific details on which the allegations are made. If there is new evidence we will want to ensure that this is looked into.

The current system for investigation of complaints is by the police, but a separate department within the RUC carries this out, overseen by the Independent Commission for Police Complaints (ICPC). In more serious cases the ICPC will supervise the case. This is a significant power.

The Commission has to approve the appointment of the investigating officer and can direct and control the conduct of the investigation.

At the end of the investigation the Commission is required to issue a statement of satisfaction or otherwise. They also look at the discipline side and can direct disciplinary charges.

Nevertheless the Government, and indeed the ICPC, recognise there are weaknesses in the current system which are failing to inspire public confidence.

The Government, therefore, has introduced the Police (Northern Ireland) Bill which provides for a :

- An Police Ombudsman to be appointed who will have complete control of the complaints process.
- The Ombudsman decides what is or is not a complaint. He may call himself in even where there is no complaint, if this is in the public interest.
- The Ombudsman to be wholly independent.

These reforms have received widespread support, and are aimed at building greater public confidence in the system (while also inspiring police confidence).

An area often criticised, and seen as a reason for the relatively low number of substantiated cases, is the standard of proof. The Government is currently considering a report by the Home Affairs Select Committee which recommended a change to the balance of probabilities.

In the meantime, while change is awaited, we have been encouraging people to recognise what the Government is seeking to do and to co-operate with the system as it exists. We note that the Special Rapporteur recommends such co-operation.

Concerning Access To Lawyers in England and Wales

In paragraph 93(a) and (b) of his report the Special Rapporteur recommends that Section 14 of the Prevention of Terrorism Act should be amended to prohibit the deferral of access of counsel to their clients and that the right to have a solicitor present during police interviews should be respected.

In practice, access is rarely deferred. The Metropolitan Police are not aware of any instances in England and Wales in the past two years where access to a solicitor of choice has been delayed.

The Government is to publish later in the year a consultation document with proposals for permanent UK-wide counter-terrorism legislation. This will look at all aspects of the current emergency legislation, including conditions of detention.

Closed Legal Visits

In paragraph 93(c) of his report the Special Rapporteur recommends that the practice of closed visits in England and Wales should be discontinued.

The Prison Service recognises the implications of imposing closed visits on a prisoner held in a special secure unit (SSU). Only those prisoners who are held to constitute the greatest danger to the public and have been categorised as exceptional risk are subject to closed visits. There are currently six exceptional risk prisoners in England and Wales. These prisoners are held in the Whitemoor SSU. The SSU at Full Sutton is currently out of use. The building at Belmarsh which housed the SSU is now used to hold high risk prisoners.

There are no terrorist prisoners among the six men currently being held in the SSU at Whitemoor. All of the prisoners currently held in SSUs have been classified as exceptional escape risk: they could have access to substantial outside assistance in any escape attempt and would constitute a very real threat should they escape.

Rule 37 of the Prisons Rules 1964 sets out the requirements for visits by legal advisers. Legal visits must take place in sight but out of hearing of prison staff. The closed visits policy is consistent with this. A prison officer remains in the visits room during

a domestic visit but outside during legal visits. Arrangements have been made to ensure that legal visits can be conducted properly under secure conditions and to ensure that documents can be transferred securely and confidentially between legal advisor and prisoner. There were some practical difficulties with the operation of the closed visits facilities immediately after their introduction but these were quickly resolved.

The closed visits facilities have been inspected by an independent barrister on a number of occasions. He has concluded that the facilities do not impede legal conferences.

The introduction of closed visits in 1995 was challenged in the courts. The judicial review of the policy had three grounds:

- that there was no power to impose closed visits;
- that the decision to do so was unreasonable and
- that the closed visits facilities were unsatisfactory.

The Court found in favour of the Prison Service on all three grounds but instructed it to keep the policy under review.

The issue went to appeal. In February 1997 the Court of Appeal also found in favour of the Prison Service. The Court found that, although in normal circumstances the imposition of closed visits might make communication more difficult, closed visits did not prevent communication. The Court noted that the Prison Service had taken steps to ensure that reasonable facilities were available and to improve the facilities when faults were identified. The Judgement made particular mention of the Prison Service's willingness to allow open visits where representations on behalf of prisoners' legal advisers had shown that in specific cases the facilities did not allow reasonable communication between prisoner and lawyer.

The closed visits policy applies to all visitors. In addition to the visitors who may be tempted to smuggle in items voluntarily there is also the risk that other visitors may be conditioned, threatened or intimidated to smuggle in articles. Legal visits are in a special category but where there is a risk that a visitor may, for example, be intimidated into bringing contraband into prison, this risk applies as much to solicitors and their staff as it does to other visitors. The policy must therefore include them.

The policy protects legal representatives and their staff from having pressure put on them and eliminates the security risk. Closed visits were introduced to remove the risk of unauthorised objects being passed from visitor to prisoner whether voluntarily or by coercion. The introduction of the policy has acted as a deterrent to prisoners and remains a necessary security measure.

The current closed visits policy provides that:

- exceptional risk prisoners should be subject to closed visits;
- open visits may be granted in exceptional circumstances with the approval of the Director of Dispersals;
- the decision whether to grant open visits should be taken in the light of the particular circumstances of each case;
- in particular, for legal visits in connection with criminal proceedings, the Prison Service, when deciding that there are exceptional circumstances, will take into account the need to ensure that there is a fair trial.

Although significant improvements have been made to security in prisons, there is still no acceptable alternative to closed visits which can guarantee that objects cannot be passed between prisoner and visitor.

The policy provides for open visits in exceptional circumstances. Exceptional circumstances are not defined. However, specific reference is made in the policy to the need to ensure that prisoners are given a fair trial. Regular open legal visits have been granted to a number of defendants in the past year to allow them to prepare for trial. Reasons for granting such visits have included the need to examine large numbers of documents and for groups of defendants to confer jointly with their legal representatives.

Her Majesty's Chief Inspector of Prisons (HMCIP) has previously expressed an interest in this area but it is understood that he does not now intend to pursue the issue. The policy has been reviewed on a number of occasions since its introduction. The Prison Service's assessment remains that closed visits are necessary on security grounds for those few prisoners who are classified as exceptional escape risk. The Prison Service will continue to keep the policy of closed visits under review to ensure that it remains the appropriate response to the threat posed by exceptional risk prisoners.

<u>Concerning Access to Lawyers in Northern Ireland</u>

2. In paragraphs 92 and 93 of his Report, the Special Rapporteur concludes that a defendant's right to Counsel is of paramount importance to guarantee his/her right to a fair trial and to protect against potential abuse. Therefore, amongst other things, he recommends that the right to have a solicitor present during police interrogation should be respected.

3. All suspects do have a right to legal advice. Access may however be delayed for up to a maximum of 48 hours only if the police have a reasonable suspicion that allowing access to lawyers would prejudice the investigation. The reason for this is that lawyers, however unwittingly, sometimes may be used to convey information

or be forced to reveal it under duress to the outside, which may prejudice the outcome of an investigation. Once the reasons for delay and access have expired the suspect is always told that he may exercise his right to legal advice. It is worth pointing out that in 1997 only 33 requests were delayed out of 512 requests made overall. In other words the percentage actually deferred was approximately 6%.

4. As for solicitors' presence during interview, there is nothing in law to say that solicitors should or should not be present. On this basis, the police consider on its merits each individual request for a solicitor to be present.

Concerning Video And Audio-Recording Of Police Interviews

In his Report, Mr Cumaraswamy recommends that as a matter of urgency the Government should install video and audio recording equipment in all holding centres in Northern Ireland, and that the tapes of such recordings should be available to Counsel upon request.

The silent video recording of police interviews with terrorist suspects came into operation from midnight on 10 March 1998. The introduction of audio recording, for which provision is made in the Emergency Provisions Bill currently passing through Parliament, will follow as soon as possible. Copies of silent video tapes will be made available to the person who was previously detained and/or his solicitor, and as appropriate, to the investigating authority, in the following circumstances:

(a) where the tape or part of it would otherwise have to be disclosed in criminal or civil proceedings;

(b) where the person who was previously detained has made a complaint in writing of ill-treatment against any of the interviewing officers; and the complaint specifies the nature of the alleged ill-treatment and approximately when it occurred. In such circumstances, upon providing details of the complaint, the relevant parts of the tape shall be made available for interviewing and upon identifying that part(s) of the tape which he alleges supports the complaint, the person who was previously detained and/or his solicitor shall be entitled to receive a copy of the relevant part(s). If the complaint is received in respect of a specific interview, only that part of the master tape shall be made available for viewing/copying.

Concerning The Murder Of Patrick Finucane

In his report Mr Cumaraswamy urges the Government to appoint a judicial inquiry to investigate the murder of Patrick Finucane in 1989. Mr Cumaraswamy urges the setting up of a tribunal similar to that set up to look in the events of 30 January 1972 known as Bloody Sunday. A Tribunal under that Act can only be established if there is an need to look at a matter of urgent public importance, the information given to the Government last year raised sufficient concern to justify an inquiry.

This is not the case with the murder of Mr Finucane. There was a police inquiry that led to three people being charged with possession of the weapon that was used in the killing of Mr Finucane. A further inquiry was conducted by Mr John Stevens following further allegations. In February 1995, having considered the report before him, the Director of Public Prosecutions for Northern Ireland concluded that there was insufficient evidence to warrant the prosecution of any person for the murder. Unless new evidence is brought to light there can be no justification for another inquiry although the police file remains open.

Concerning The Emergency Legislation

A Right to Silence

Under the Criminal Evidence (Northern Ireland) Order 1988, the defendant is entitled to remain silent. Silence does not constitute a criminal offence or contempt of court and a defendant cannot be convicted on the basis of silence alone. The Order enables a court to draw whatever inferences appear proper when the defendant remains silent in situations which clearly call for an explanation. The Order has made a significant contribution to dealing with serious crime, both terrorist and non-terrorist.

The Murray decision of the European Court of Human Rights

In the case of Murray v the United Kingdom, the European Court of Human Rights found against the UK on the question of drawing inferences from silence while a suspect is denied access to legal advice. The judgement has implications for both criminal and emergency law and wide consultation within Government has been necessary.

A number of options have been studied and the Government hopes to be in a position to announce a detailed response in the near future. It should be noted that in recent years access to legal advice has been delayed in only a small number of cases in Northern Ireland; 13 occasions in 1996 compared to 706 occasions in 1990.

Confession Evidence

At paragraph 95(b) of his Report, Mr Cumaraswamy states that "the permissive EPA standard for admitting at trial confession evidence procured by psychological pressure, deprivation or other non-violent forms of coercion should be abolished".

While the law currently provides for a lower standard of proof for the admissibility of confession evidence in terrorist cases, that provision is under review . In practice judges apply the higher Police and Criminal Evidence Act (PACE) standard. The Government attaches the greatest importance to the protection of the rights of those held in police custody. A significant range of statutory and administrative safeguards to protect persons in police custody are in place. The introduction of video and audio recording will add to those safeguards. It should also be borne in mind that allegations of ill-treatment are thoroughly investigated

by the police. The Independent Commission for Police Complaints must supervise any case where there are allegations of serious injury and may supervise any other which is in the public interest. All complaints are investigated for any breach of discipline.

The Independent Commissioner for the Holding Centres, Sir Louis Blom-Cooper, and his deputy make frequent visits to the holding centres to monitor both conditions and procedures. Sir Louis' most recent Report shows yet again that neither he nor his deputy have found any cause for concern.

Diplock Courts

At paragraph 95(c) of his Report, Mr Cumaraswamy recommends that the right to trial by jury should be reinstated, with safeguards put into place to protect the integrity of jurors.

In principle, the British Government agreed with this recommendation, but it is easier said than done. Diplock Courts were introduced in Northern Ireland to safeguard the judicial process because of significant levels of intimidation against jurors and the returning of perverse verdicts. Added to this there is always the possibility of a jury splitting along sectarian lines. For these reasons the time has not yet come for a return to jury trials although the matter is kept under continual review.

It should also be pointed out that although the judge sits without a jury in court, all the principles of British justice have been maintained: trial in open court with the calling and cross-examining of witnesses; an onus on the prosecution to prove guilt beyond reasonable doubt; the right on the part of the accused to take legal action and be represented by a lawyer, and if necessary the provision of legal aid. There are also important additional safeguards in existence to ensure that justice is seen to be done. In the light of a conviction the Judge must provide a written judgement outlining the reasons for it. There is also an automatic right of appeal on both points of law and fact and all such appeals are considered by the Appeal Court which comprises three judges.

There is no evidence whatsoever that the present system of a single Judge has in any way led to perverse verdicts or to a lowering of standards to the detriment of defendants. The safeguards of a written judgement and an automatic right of appeal to a three court judge preclude this.

Concerning The Issues Of "Bugging"

Mr Cumaraswamy refers specifically to criticisms of part III of the Police Act 1997 voiced by non-governmental organisations that it is viewed as "narrowly drafted". Part III of the Police Act 1997 was specifically intended only to provide for the authorisation of Police and Customs intrusive surveillance operations involving interference with property or wireless telegraphy. It should be seen as a first step in regulating surveillance operations undertaken by UK law enforcement agencies.

Consideration is already being given to what other safeguards and procedures are necessary to cover other forms of surveillance which presently come within the terms of Home Office guidelines.

Part III puts operations involving interference with property on a clear statutory basis and introduces a number of safeguards against inappropriate use of the provisions. These safeguards include independent oversight of the authorisation process and investigation of complaints by a Chief Commissioner and Commissioners, all of whom must hold or have held high judicial office. It will provide an effective statutory basis for important law enforcement techniques, whilst safeguarding individual liberties.

The Act contains no specific exemptions for certain categories of information. Mr Cumaraswamy acknowledges our view that such exemptions would create loop-holes which criminals would be sure to exploit. However, the Act does incorporate special procedures which take full account of the sensitivity and need for particular care where questions of legal privilege are likely to arise. Section 97 of the Act requires that the approval of an independent Commissioner must, save in cases of urgency, be given to an authorisation believed likely to result in the acquiring of matters subject to legal privilege. Section 98 of the Act provides further clarification of "Matters subject to legal privilege" and Section 103 outlines the remedies available to independent Commissioners to quash authorisations and order destruction of records where required approval requirements are not applied.

The draft code of practice, which supports the provisions, does not describe the concept of legal privilege in greater detail. Terms such as "legal privilege" are constantly being redefined by the courts. The addition of a free standing definition in the code would quickly become out of date and would need constant updating.

Neither does the code of practice explicitly provide for the destruction of legally privileged material. Statutory disclosure requirements contained in the Criminal Procedure and Investigations Act 1996 and compliance with data protection obligations impact on this issue. The draft code already makes clear that material obtained by intrusive surveillance which is wholly unrelated to a criminal investigation or to any person who is the subject of the investigation, where there is no reason to believe relevance to future proceedings, should be destroyed immediately.

Mr Cumaraswamy has drawn attention to the statutory regime for authorisation which exists in New Zealand. However, direct comparisons of this type are not always helpful. Different jurisdictions have approached this issue in a variety of ways, reflecting their own criminal justice police systems. The approach taken in part III fully reflects the structure of the regional policing system in the United Kingdom (New Zealand has a national police force). It ensures accountability for decision making, building upon the independence and responsibility of chief officers and fully utilising their unique operational experience and knowledge. It also incorporates an element of independent oversight in the form of surveillance Commissioners, who are required to be senior retired or serving judicial figures.

For the reasons outlined above, we disagree with Mr Cumaraswamy's conclusion that part III of the Police Act is too vague and requires amendment to ensure scrupulous respect for lawyer/client relations. The authorisation mechanism is based upon a number of significant statutory safeguards which fully acknowledge the importance of legally privileged material, striking an important balance between operational effectiveness and individual freedoms. The UK Government is fully committed to implementing these important provisions and will do so at the earliest opportunity.

Concerning The Police Ombudsman

Turning to the Special Rapporteur's recommendations in Paragraph 90 (a) that "the authorities, preferably the police Ombudsman, conduct an independent and impartial investigation of all threats to legal counsel in Northern Ireland"

As mentioned if we receive evidence of such action we will ensure that it is acted upon. The Chief Constable has already said that he will do so.

We do not understand recommendation 91 (b) "where there is a threat to the physical integrity of a solicitor or barrister, irrespective from whom the threat emanates, the Government should provide the necessary protection and should vigorously investigate the threats and bring to justice the guilty party"

The Government already seeks to fulfil its duty to protect all of its citizens. The police and the ICPC will also investigate threats and where possible bring to justice those who are guilty. However, I repeat that full co-operation is necessary.

It is worth saying in this context that our experience of complaints is that there are often two different versions of events and it can be a difficult task to get at the truth. But, there is a determination to attempt to do this.

The Government welcomes Mr Cumaraswamy's comments on Royal Ulster Constabulary training, which we are sure the Chief Constable will look at carefully. We are sure such an approach, if tackled with good will on all sides would be a significant step forward.

Concerning The Judiciary

The Government attaches great importance to ensuring that effective arrangements are made to support the judiciary in the task of implementing the Human Rights Bill and giving effect to the Convention rights. The Judicial Studies Board is currently planning training programmes for members of the judiciary at all levels which will be delivered prior to the implementation of the legislation.

The Government is undertaking a review of the UK's position under various other human rights treaties and will announce its conclusions in due course.